

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

GMS INDUSTRIAL SUPPLY, INC.. )

Plaintiff, )

v. )

Civil Action No. 2:19-cv-324 (RCY)

G&S SUPPLY, LLC, *et al.*, )

Defendants. )

**ORDER**

This matter is before the Court on Defendants’ Motion for Judgment as a Matter of Law pursuant to Rule 50 of the Federal Rules of Civil Procedure made orally before the Court during the jury trial on June 3, 2022. Defendant moved for judgment as a matter of law as to all pending claims following the conclusion of Plaintiff’s case.<sup>1</sup>

Under Rule 50 of the Federal Rules of Civil Procedure, a court “may grant judgment as a matter of law only if, viewing the evidence in a light most favorable to the non-moving party and drawing every legitimate inference in that party’s favor, . . . the only conclusion a reasonable jury could have reached is one in favor of the moving party.” *Huskey v. Ethicon, Inc.*, 848 F.3d 151, 156 (4th Cir. 2017) (quoting *Saunders v. Branch Banking & Tr. Co. of Va.*, 526 F.3d 142, 147 (4th Cir. 2008)). “If, upon the conclusion of a party’s case, ‘a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue,’ a court may grant a motion from the opposing party for judgment as a matter of law.” *Id.* (citing Fed. R. Civ. P. 50(a)).

Upon consideration of the parties’ oral arguments and for the reasons stated on the record, the Court rules as follows:

- Defendants’ Motion as to Count I is DENIED;
- Defendants’ Motion as to Count II is GRANTED;

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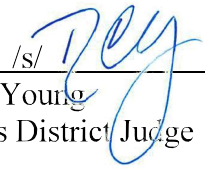
<sup>1</sup> The Court notes that Counts VI and IX of the Third Amended Complaint were dismissed previously. (See ECF Nos. 102 & 252.)

- Defendants' Motion as to Count III is DENIED;
- Defendants' Motion as to Count IV is GRANTED as to Defendant HMC Supply, LLC ("HMC") and DENIED as to all remaining Defendants;
- Defendants' Motion as to Count V is GRANTED as to Defendant HMC and DENIED as to all remaining Defendants;
- Defendants' Motion as to Count VII is GRANTED;
- Defendants' Motion as to Count VIII DENIED as to Defendant Westly Greer and GRANTED as to all remaining Defendants;
- Defendants' Motion as to Count X is GRANTED as to Defendant HMC and DENIED as to all remaining Defendants;
- Defendants' Motion as to Count XI is GRANTED as to Defendant HMC and DENIED as to all remaining Defendants;
- Defendants' Motion as to Count XII is GRANTED as to Defendant HMC and DENIED as to all remaining Defendants; and,
- Defendants' Motion as to Count XIII is GRANTED in its entirety as to Defendant HMC, GRANTED to the extent it seeks relief based on Trade Dress Infringement or Unfair Competition under Section 43(a) of the Lanham Act, and DENIED as to all Defendants other than Defendant HMC to the extent it seeks relief based on False Designation of Origin under Section 43(a) of the Lanham Act.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record.

Norfolk, Virginia  
Date: June 8, 2022

  
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/s/ Roderick C. Young  
United States District Judge